

000921 REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO		1. CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY) <i>AC 29000''''</i>					
TO: CITY COUNCIL		2. FROM (ORIGINATING DEPARTMENT): CITY ATTORNEY					
4. SUBJECT: RETENTION OF LATHAM & WATKINS, LLP FOR LEGAL SERVICES FOR CASE <i>SCOTTSDALE INSURANCE V. CITY OF SAN DIEGO</i> . SUPERIOR COURT CASE NO. 37-200083941-CU-IC-CTL		3. DATE: July 7, 2008 117 07/29					
5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.) Maria Severson (619) 533-5816, MS 59		6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.) Lawrence Tomanek, (619) 533-5878, MS 59					
8. COMPLETE FOR ACCOUNTING PURPOSES			7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED <input checked="" type="checkbox"/>				
FUND	81140	9. ADDITIONAL INFORMATION / ESTIMATED COST: Estimated costs for engagement not to exceed \$100,000.					
DEPT.	82240 81140						
ORGANIZATION	3501						
OBJECT ACCOUNT	4151 4141						
JOB ORDER	081141						
AMOUNT	\$100,000						
10. ROUTING AND APPROVALS							
ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	CITY ATTORNEY	8/7/08	8	CFO	MARY LEWIS	7/17/08
2	RISK MGMT.		8-10-08	9	COO	JAY GOLDSTONE	
3	LIAISON OFFICE	ED PLANK	7/14/08	10			
4	FIN. MGMT.		7/15/08	11	CITY ATTORNEY	LAWRENCE TOMANEK	7/8/08
5	COMPTROLLER		7/16/08	DOCKET COORD. _____ COUNCIL LIAISON <i>GC</i> <input checked="" type="checkbox"/> COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: 7/29/08			
6							
7							
11. PREPARATION OF: <input checked="" type="checkbox"/> RESOLUTIONS <input type="checkbox"/> ORDINANCE(S) <input type="checkbox"/> AGREEMENT(S) <input type="checkbox"/> DEED(S)							
1. Authorizing \$100,000 for retention agreement for outside counsel in the defense of the City in the case of <i>Scottsdale Insurance v. City of San Diego</i> , Superior Court Case No. 37-2008-00083941-CU-IC-CTL. <i>appropriate and</i>							
2. Authorizing the City Comptroller to expend up to \$100,000 from the Public Liability Fund for the coverage of Latham & Watkins' (up to \$100,000) legal fees and costs related to this matter.							
11A. STAFF RECOMMENDATIONS: ADOPT THE RESOLUTION							
12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.) COUNCIL DISTRICT(S): ALL COMMUNITY AREA(S): N/A ENVIRONMENTAL IMPACT: THIS ACTION IS NOT A "PROJECT" SUBJECT TO CEQA HOUSING IMPACT: N/A OTHER ISSUES:							

EXECUTIVE SUMMARY SHEET

DATE ISSUED: July 7, 2008

REPORT NO.:

ATTENTION: COUNCIL PRESIDENT AND COUNCILMEMBERS

ORIGINATING DEPARTMENT: City Attorney

SUBJECT:

Contract with Latham & Watkins for Insurance Law services in the matter entitled *Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park*, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL.

COUNCIL DISTRICT(S): ALL

CONTACT/PHONE NUMBER:

Maria Severson, Chief Deputy City Attorney/533-5816

Lawrence Tomanek, Chief Deputy City Attorney/236-6220

REQUESTED ACTION:

Authorize the City Attorney to execute an Agreement on behalf of the City of San Diego to engage Latham & Watkins LLP as Outside Counsel for the sole purpose of representing the City in this insurance lawsuit arising out of Scottsdale Insurance's payment of legal defense costs in the action entitled *Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park*, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL. Scottsdale Insurance seeks reimbursement of fees and costs paid in that matter, stating it had no coverage obligations after certain rulings by the Superior Court in that action.

Approve the Resolution to authorize the City Attorney to execute an agreement not to exceed \$100,000 between the City of San Diego and Latham & Watkins LLP for insurance law legal services as Outside Counsel for the sole purpose of representing the City in *Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park*, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL.

STAFF RECOMMENDATION:

Approve the Resolution

EXECUTIVE SUMMARY:

\$100,000 has been approved for this matter in Closed Session.

In the Closed Session Meeting of June 24, 2008, the City Council voted on Item CS-3, *Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park*, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL, to approve retention of Latham & Watkins to defend the City. The motion was made by Councilmember Frye and the second by Councilmember Atkins. The motion passed 7 to 0 with Councilmember Young absent.

000924

FISCAL CONSIDERATIONS:

The City shall compensate Latham & Watkins LLP based on its hourly rates for consulting services. This Request has a not-to-exceed amount of \$100,000 and will be borne by the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

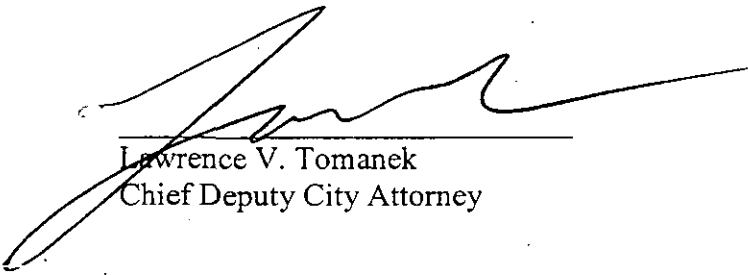
This is the initial request for approval of services for the above listed matter. The firm of Latham & Watkins LLP previously has provided other legal services to the City.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Latham & Watkins LLP



Lawrence V. Tomanek
Chief Deputy City Attorney

**The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

000925

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

AC 2900044

DEPT. NO.: 45

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT											

FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$100,000.00

Vendor: Latham & Watkins

Purpose: Authorize \$100,000 for retention agreement for outside counsel in the defense of the City in the case of Scottsdale Insurance v. City of San Diego. Authorize the City Comptroller to appropriate and expend up to \$100,000 from the Public Liability Fund for the coverage of legal fees and costs related to this matter.

Date: July 16, 2008 By: *Palm Haller* 7/16/08

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	AMOUNT
001	0	81140	81140	3501	4141	081141					\$100,000.00
TOTAL AMOUNT											\$100,000.00

000927

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE CITY OF SAN DIEGO
AUTHORIZING THE RETENTION OF LATHAM & WATKINS
FOR THE PURPOSES OF LITIGATION REGARDING
SCOTTSDALE INSURANCE AS IT RELATES TO DE ANZA
COVE LITIGATION AND AUTHORIZING THE CITY
COMPTROLLER TO EXPEND RELATED FUNDS

WHEREAS, this insurance lawsuit arises out of Scottsdale Insurance's payment of legal defense costs in the action entitled *Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park*, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL. Scottsdale Insurance seeks reimbursement of fees and costs paid in that matter, stating it had no coverage obligations after certain rulings by the Superior Court in that action; and

WHEREAS, the defense of the aforementioned case involves a highly specialized area of law; and

WHEREAS, the firm of Latham & Watkins LLP has the necessary skills and experience to assist the City in defense of this matter; and

WHEREAS, the Council of the City of San Diego has been briefed on the status of this matter in duly-noticed Closed Session on June 24, 2008, the City Council voted on Item CS-3, authorizing \$100,000 to defend the case *Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park*, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL. The motion was made by Councilmember Frye and seconded by Councilmember Atkins. The motion passed 7 to 0 with Councilmember Young absent; and

000928

WHEREAS, the Council determined to retain Latham & Watkins to assist the City

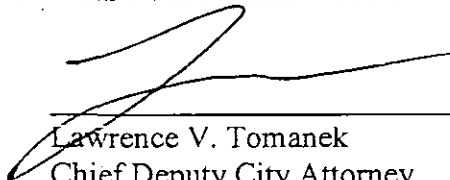
Attorney in defense of this matter; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Attorney is authorized to retain Latham & Watkins LLP for the provision of legal services in *Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park*, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL, in an amount not to exceed \$100,000..

BE IT FURTHER RESOLVED, that the Comptroller is authorized to expend up to \$100,000 from the Public Liability Fund on this matter.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Lawrence V. Tomanek
Chief Deputy City Attorney

LVT:ca
07/16/2008
Aud. Cert.: AC 2900044
Or.Dept:CITY ATTY
R-2008-1175

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor